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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,206	01/26/2002	Ignatius L. Catania	IC-2002	3932

7590 10/17/2003  
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EXAMINER

ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Applicati n No.

10/058,206

Applicant(s)

CATANIA, IGNATIUS L.

Examiner

Raymond W. Addie

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10, 11 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10, 11, 14-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10, 11, 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "easily attachable and removable from the straight edge" in claims 10, 16 is a relative term which renders the claim indefinite. The term "easily attachable and removable " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Hence, one of ordinary skill in the art, would not be able to determine the scope of the limitation nor be able to determine equivalent structural requirements necessary to perform the intended function.

The term "the 1<sup>st</sup> and 2<sup>nd</sup> engagement members are positioned an appropriate distance from each other on the straight edge wooden board to fit the user" in claims 10, 16 is a relative term which renders the claim indefinite. The term "an appropriate distance from each other " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Hence, one of ordinary skill in the art, would not be able to determine the scope of the limitation nor be able to determine equivalent structural requirements necessary to perform the intended function.

***Claim Rejections - 35 USC § 103***

2. Claims 10- are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over McKown # 2,586,472 in view of Aguilera # 6,550,214 B2 and Carrillo # 4,449,845.

McKown discloses an apparatus (10) for utilization with a straight edge board (34), for use by a single user. The apparatus comprising:

An engagement member (10) having a top plate (12) and 2 opposing side plates (14, 16) for attachment to said straight edge board (34). At least one of said side plates (14, 16) having a plurality of apertures (24) for receiving a threaded bolt (26) to secure the straight edge board to the engagement member (10).

A cylindrical, elongated handle (30), having a threaded end for connection with said engagement member (10), via a fixed, threaded socket (28).

What McKown does not disclose is the use of a 2<sup>nd</sup> handle or a moveable connecting socket. However, Aguilera '214 teaches a concrete screeding device comprising:

A screed plate (12) rotatably connected to a cylindrical, elongated handle (36) via an adjustable handle bracket (28). Said adjustable handle bracket (36) further comprising a base (30), and a pair of moveable sockets (32, 38), at least one moveable socket being capable of 360 degree movement. Said handle (36) being of a length such that a single user may operate said screeding apparatus, in a standing position. See cols 3-4.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the apparatus of McKnown, with an adjustable handle mount, as taught by Aguilera, in order to utilize the screeding apparatus in a variety of angular dispositions, thereby relieving back pain of the user.

What McKnown in view of Aguilera do not disclose is the use of a 2<sup>nd</sup> handle and the composition of the engagement member. However, Carrillo '845 discloses an apparatus (10) for utilization with a straight edge wooden board (30) having an intended use for leveling uncured concrete by a single user (2).

The apparatus comprising:

An engagement member (12) further comprising:

A frame composed of steel, for being attached to said wooden board, and having  
a top plate (18), and 2 downwardly extending side plates (14, 20). Each side  
plate (14, 20) having a plurality of apertures (16, 22) respectively.

A plurality of fastening bolts and nuts (24, 26), for extending through said  
apertures (16, 22) for securing the engagement member to said board (30).

1<sup>st</sup> and 2<sup>nd</sup> pivotably mounted handles (40, 50) having a 1<sup>st</sup> end connected to said  
engagement member, and a 2<sup>nd</sup> end having a grip (42, 52, 60) thereon.

Said handles being of a length appropriate for use by a single user. See col. 3.

Carrillo further teaches it is desirable to use a variety of straight edge wooden boards of  
lengths ranging from 3'-20', dependent upon the application of the apparatus.

Although Carrillo does not disclose the length of the side plates (14, 20), Carrillo clearly teaches the apparatus is intended for use with "2x4" or "2X6" wooden boards. Hence, it would be obvious to one of ordinary skill in the art, that the side plates would have to be approximately 2.5" long, in order to support the screed board, without warping, or interfering with the surface being screeded. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the apparatus of McKnown in view of Aguilera, with a handle assembly, as taught by Carrillo, in order to support straight edge wooden boards, of extended lengths, and various materials; thereby obviating the need of additional laborers. See Carrillo col. 2, ln. 66-col. 4, ln. 5; col. 6, lns. 43-49.

In regards to Claim 11 although McKnown and Carrillo disclose a single engagement member for attaching the screed board to the handle assembly, it would be obvious to one of ordinary skill in the art, that the single, unitary engagement member could be in the form of multiple engagement members, in order to reduce the overall weight of the apparatus, as reasonably suggested by Carrillo.

Further, Carrillo teaches it is desirable to provide a plurality of apertures (16, 22), a total of 4 being illustrated in Figs. 6, 7, as well as the use of through bolts and nuts (24, 26) respectively. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide, the apparatus of McKnown in view of

Aguilera, with an engagement assembly, as taught by Carrillo, in order to minimize the overall weight of the apparatus, while still supporting the screed board within the engagement assembly.

In regards to Claims 14, 15 although neither McKnown nor Carrillo disclose the dimensions of the engagement member, both references disclose that said dimensions can be varied in order to adapt to specific environmental and operations requirements. Hence, it would be obvious to provide an engagement member having side plates spaced between 1.5"-2.0" apart in order to provide a "snug fit" between the "2X4" or "2X6" wooden board being used; and to minimize the thickness of the plates, in order to minimize the overall weight of the device. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the apparatus of McKnown in view of Aguilera, with an engagement member, specifically dimensioned to support a "2X4, or 2X6" wooden board, as taught by Carrillo, in order to adapt the device to specific environmental and operational requirements. See Carrillo Col. 3, Ins. 33-col. 4, ln. 5.

In regards to Claim 16, although McKnown in view of Aguilera disclose the use of hard rubber or the like, Carrillo teaches that a variety of materials are equivalent for use in screeding uncured concrete, such as wood, metal or any other material out of which the appropriate length of screed may be fashioned.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the apparatus of McKnown in view of Aguilera, with a wooden "2X4" screeding board, as taught by Carrillo, since wooden "2X4" are readily available in a variety of lengths, and easily installed and replaced. See Carrillo Col. 3, Ins. 53-col. 4, ln. 5.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 10, 11, 14-16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

**TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date



of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

In this case, Applicant's amendment to the independent claims, requiring a moveably socket capable of 360 degree motion, was not previously put forth in the original claims, and thus necessitated and new search of the prior art, which provided the new reference to Aguilera, which teaches the now claimed assembly.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 7:00 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

  
Thomas B. Will  
Supervisory Patent Examiner  
Group 3600

RWA  
10/08/2003